IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 5621 of 1999
To
FIRST APPEAL No. 5624 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PROJECT MANAGER, ONGC LIMITED
Versus
DY COLLECTOR, MEHSANA

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Appearance :
MR AJAY R MEHTA for the appellants
Mr ND Gohil, AGP for Respondent No.1

Respondent No.2 – Served

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 27/06/2006

COMMON ORAL JUDGMENT

By preferring these appeals under Section 54 of the Land Acquisition Act the appellant – acquiring body has challenged the judgment and order declared by the Assistant Judge, Mehsana in Land Reference Cases Nos.2579 of 1993 to 2582 of 1993 and 2126 of 1993. The claimants are the owners of various agricultural lands situated at village Samu, Taluka Vijapur, District Mehsana. On behalf of the Project Manager, ONGC, Mehsana proceedings were initiated for temporary acquisition of lands for the purpose of its drilling site and for approach road to village Samu. By way of private negotiations possession was taken on 24th July 1990 by drawing the appropriate panchnama showing the position of the crops, etc. For this temporary acquisition of lands, the Special Land Acquisition Officer awarded compensation at Rs.0.95 per square meter per year. The Special Land Acquisition Officer also awarded compensation for the standing crops and trees. However, the claimants were not satisfied by the said award of the Land Acquisition Officer and ultimately prayed for reference before the District Court. The Special Land Acquisition Officer accordingly made reference to the District Court. The aforesaid references were numbered as Land Acquisition References Nos.2579 of 1993 to 2581 of 1993 and 2126 of 1993. After considering the oral and documentary evidence, the learned District Judge by his judgment and order dated 11.9.1998 partly allowed the said References. The appellant was directed to pay additional amount of Rs.2 per square meter per year by assessing the rent of the said land at Rs.2.95. The learned Judge has also granted interest on the additional amount from the date on which the amount becomes due till realisation. The learned Judge also awarded 20% additional

compensation for the standing crops over and above the compensation awarded by the Special Land Acquisition Officer.

Being aggrieved with the aforesaid judgment and award of the learned Assistant Judge, Mehsana, the acquiring body has preferred these appeal through its Project Officer.

Learned advocate Mr Ajay Mehta vehemently submitted that the compensation fixed is on higher side and that there is no material available for awarding additional amount of Rs.2 per sq. meter per year towards the rent. He, therefore, submitted that the amount is required to be suitably reduced.

Though served, the claimants have chosen not to appear before this Court.

I have gone through the record and proceedings of the case, which is available for my perusal. So far as fixation of the amount towards rent is concerned, the learned District Judge has found that the lands are situated in highly developed taluka – Vijapur, which is known for its agricultural fertility. It is found that the land in the said taluka fetches higher agricultural yield and agricultural income is also on higher side. The learned District Judge has found that the acquiring body has also not disputed this fact. The learned District Judge has also found in paragraph no.14 of his award that the Special Land Acquisition Officer has himself come to the conclusion that the claimants are taking crops like millets, muster seeds, castor seeds, etc. but the Land Acquisition Officer has not taken into consideration the prices of these produce at the time of taking possession of the fields. On behalf of the claimants, it was submitted before the District Court that even if according to the

calculation and factors taken into consideration by the Special Land Acquisition Officer himself earning per square meter comes to more than Rs.3 per square meter per year. It is found that there are irrigation facilities in the fields and valuable crops are taken by the claimants during the year. After considering the evidence on record and considering the reasoning of the District Judge it is clear that lands in question are very fertile land and valuable crops are taken from time to time by the claimants. On behalf of the claimants, witness Baldevbhai Rambhai, who is the claimant in Land Reference Case No.2579 of 1993 has stated in his evidence that the land is very fertile land and yearly income through cultivation is about Rs.40,000/-. The said claimant has also produced on record a coy of the award at Exhibit 12 wherein the rent was fixed at Rs.2.95. The said award was declared in connection with the adjoining land. Of course, the learned Judge of the Reference Court has not given any weightage to the aforesaid award but, after considering the nature of the crops, the learned Judge of the Reference Court has fixed yearly rent at Rs.2.95 per square meter.

Mr Mehta has also frankly submitted that on the basis of the aforesaid order, additional amount payable would be negligible amount. For example, the court fee of Rs.890 is paid. Considering the reasoning of the learned District Judge the fixation of the aforesaid amount at Rs.2.95 as yearly rent, it is not required to be interfered with by this Court as the learned District Judge has given proper reasons. In my view, the aforesaid amount of compensation is just and proper. Even otherwise looking to the smallness of the claim involved in all these appeals, the order of the District Judge is not required to be interfered with and in view of the decision of the Division Bench of this Court in First Appeal No.1117 of 2003 decided on 29.12.2004 this appeal deserves to be dismissed. The Division Bench of this Court in First

Appeal No.1117 of 2003 has observed in paragraphs nos.3 and 4 as under:-

> *"3. It may be noted that learned single Judge of this Court as well as a Division Bench of this Court in number of matters have dismissed appeals filed by the appellant challenging the awards of the reference courts on the ground of smallness of the amount. The Division Bench of this Court (Coram: M.H. Kadri & C.K. Buch, JJ.) in First Appeal Nos.6765 of 1999 to 6804 of 1999 vide judgment dated 29.3.2000 has considered an amount of Rs.25,500/- awarded to the claimant, without considering other statutory benefits, as small amount. In the said judgment it has been observed that it is the consistent practice which is followed by various Division Benches of this Court that wherein claim involved in the Land References cases is less than Rs.35,000/-, appeal should be dismissed on the ground that it involves petty claim.*
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> *4. Applying the principles laid down by the Division Bench of this Court in the judgment recorded in First Appeal Nos.6765 of 1999 to 6804 of 1999 to the facts of the present case, in the instant case, the original amount awarded to the respondent is Rs.11,425/- plus statutory benefits, which comes in all to Rs.16,223.50 and, therefore, this amount being a small amount, the appeal deserves to be dismissed on the ground of petty claim."*

It is not in dispute that the additional amount for which the appeal is filed in the Court is small amount and considering the decision of this Court referred to above these appeal deserve to be dismissed. Mr Gohil, learned Assistant Government Pleader has submitted that in a given case if the amount involved is less, the Appellate Court may not interfere with the award of the District Court.

It is, however, made clear that dismissal of these appeals or the judgment of the Reference Court may not be treated as a precedent in regard to future cases as each case has to be decided on its own merits and on its own evidence.

(P.B.Majmudar, J.)

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